San Diego City Attorney
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NEWS RELEASE

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"TIME IS RUNNING OUT" FOR ELECTED OFFICIALS WHO CONTRIBUTED TO BILLION DOLLAR PENSION DEBACLE TO CORRECT THEIR ACTIONS
City Attorney Urges City Council to Support Pension Reform

San Diego, CA— "Time is running out for those still in office who caused or contributed" to the City's billion dollar pension problem proclaimed City Attorney Michael Aguirre who again is urging the Mayor and City Council to implement two key pension reforms that will rid taxpayers of the burden to pay $500 million of unlawful pension debt.

One of the reforms, cited in the City Attorney's January 11th Report to the Citizens of San Diego, challenged the ability of elected officials to purchase 5 years of retirement credits even though the City Charter bars them from serving more than 8 years. In a January 15, 2008, memorandum to the Mayor and City Council, Aguirre is insisting that immediate action be taken to terminate the practice.

The controversial pension benefit, known as the Purchase of Service Credit program (PSC), is also available to City employees. On September 21, 2007 the San Diego City Employees Retirement System (SDCERS) confirmed that $146 million of the City's $1 billion employee pension liability is attributable to the PSC program due to a discounted pricing formula set-up by past SDCERS trustees. Last December, the SDCERS Board decided not to seek additional monies from employees who purchased retirement credits below actual value but rather have the System absorb the $146 million liability.

That program and the Deferred Retirement Option Plan (DROP) are two employee pension benefits that were intended to be cost-neutral but have instead resulted in explosive costs to the retirement system.

Created in 1997, the DROP program allows employees to accrue their retirement benefit from the City in a special account for up to five years before they actually retire. The City guarantees an 8% annual rate of return on the money deposited into the account. The employee is also paid their regular salary at the same time. It is estimated that up to $300 million of the City's $1 billion employee pension liability is attributable to the DROP program.

During his tenure as City Attorney, Aguirre has urged the Mayor and City Council to implement the original legislative intent that both programs be operated on a cost-neutral basis. Taking this action would trim approximately $500 million from the pension systems unfunded liability.

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In the January 15th memorandum to the Mayor and City Council, Aguirre again urged immediate action to operate the programs on a cost-neutral basis as originally intended.

"Elected officials have a fiduciary duty to the citizens of the City of San Diego to correct past prior practices that violate the law and ensure that future violations do not occur," said Aguirre.

The January 15, 2008 memorandum is posted on the City Attorney's website at www.sandiegocityattorney.org, click "Significant Reports and Legal Documents."

BACKGROUND:

The PSC program was originally created by the City to benefit members of the military who left City service to serve in the armed forces. For instance, if a member of the military was called to active duty for two years, that employee could purchase the two years missed upon returning to the City.

The program was expanded in 1996, as a part of the Manager's Proposal I (MP1) deal between the City and the SDCERS. The new program expanded the PSC program and enabled all City employees to purchase up to five years of service credits – without actually working those years. The program was incorporated into the City of San Diego's Municipal Code.

According to MP I, the program was supposed to be cost neutral for the City and the years of service were supposed to be priced so the employee would pay the full price of the benefit--both the employee and City cost.

However, on March 21, 1997, the SDCERS Board priced the years far below what it would cost the City to provide the benefit. Regardless of an employee's salary, years of service, or age--all factors that should have been considered in structuring the pricing formula--General and Legislative Members were charged 15 percent of current pay per year purchased. The corresponding cost for Safety Members was 26 percent of current pay. Under the pricing formula, a general member earning $100,000 per year could buy a year of pension credits for $15,000. The cost would be $26,000 per year purchased for a safety employee.

The program became wildly popular as City employees sought to cash in on the benefit. It was not long until SDCERS officials realized that the discounted pricing formula was creating a debt to the pension system. However, even after discovering this fact, the SDCERS Board did not revise the pricing formula for several years.

Both the SDCERS actuary and its Assistant Administrator warned the SDCERS Board that the pricing formula needed to be revised upward if the program was to be cost-neutral to the City. Finally, on August 15, 2003 the SDCERS Board voted to raise the per year cost of the PSC program to 27% for General Members, 37% for Safety Members, and 50% for Legislative Members.

However, the SDCERS Board allowed employees who submitted their application before November 1,

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2003, to purchase service credits at the lower, former price. As a result, hundreds of additional years of service were purchased at the discounted rate and added to the pension system's debt.

During labor negotiations in 2005, it was agreed that the program would be closed to new City employees hired after 1 July 2005.

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